

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Joseph E. McCants,

324 Pineland Lane
Moncks Corner, South Carolina 29461.

SCDOI File Number 2001-109897

**Default Order Revoking
Resident Agent and Broker
Licenses**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 2000), by the State of South Carolina Department of Insurance upon Joseph E. McCants, by both certified mail, return receipt requested, and by regular mail on August 8, 2001.

That Notice informed McCants of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. The Notice further warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance agent within the State of South Carolina. Despite that warning, McCants has failed to respond to the Department's Notice. On 1 October 2001, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent and broker in the State of South Carolina, McCants failed to turn-over or satisfactorily account for approximately \$500,182 in insurance premiums to St. Paul Surplus Lines Insurance Company, \$25,250 in premiums to Genatt Associates, and \$54,968 in premiums to Westchester Surplus Lines Insurance Company that had been collected from citizens of this State. The letter further alleged that McCants failed to submit applications or place coverage for consumers, leaving those consumers without coverage.

Section 38-43-130 of the South Carolina Code provides the Director or his designee "may revoke or suspend an agent's license after ten day's notice...when it appears that an agent...has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State." This Code Section goes on within Subsection (3) to describe "deceived or dealt unjustly with the citizens of this State" specifically to include, "failing to transmit promptly or pay all or a portion of the amount of an insurance premium when the agent...has received payment from a customer or insured." Subsection (6) includes "failing to notify promptly the customer or insured if the agent has been unable to obtain the requested insurance for him." Moreover, Regulation 69-34.1(E)(m) makes the "failure to report within seven business days the full amount of any premium or partial premium collected from an applicant" an unfair business practice.

In accordance with my findings of fact, and considering McCants' failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that McCants violated S.C. Code Ann. § 38-43-130(3) and (6) (Supp. 2000) and that the licenses issued to him by this Department should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 2000). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(3) (Supp. 2000), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that the licenses of Joseph E. McCants to transact business as a resident insurance agent and broker within the State of South Carolina be, and are hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which McCants is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in black ink, appearing to read "E. N. Csiszar", with a long, sweeping horizontal stroke extending to the right.

Ernst N. Csiszar
Director

1 October 2001, at
Columbia, South Carolina

**Before the State of South Carolina
Department of Insurance**

In the matter of:

Joseph E. McCants

324 Pineland Lane
Moncks Corner, South Carolina 29461

109897
SCDOI File Number 2001-~~108563~~ *JD*

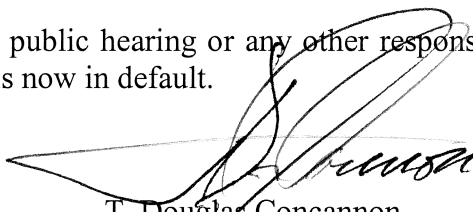
Affidavit of Default

Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was the attorney representing the State of South Carolina Department of Insurance (the Department) in this administrative action. He further stated the following:

The Department served notice on Joseph E. McCants (McCants) at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke his license to act as a resident insurance agent within the State of South Carolina in ten days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 2000), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." The Notice further informed McCants of his opportunity, within ten days, to request in writing a public hearing.

The Department mailed the Notice by certified mail, return receipt requested, and by regular mail, on or about August 8, 2001. The United States Postal Service notified McCants of the certified letter on August 10th and 14th, 2001. *See* "Exhibit A." The United States Post Office at Moncks Corner, South Carolina then returned the certified letter to the Department on August 25th, having marked it "Unclaimed." The Notice sent via regular mail was not returned.

McCants has made no request for a public hearing or any other response to the Notice. The time in which to do so has expired. He is now in default.



T. Douglas Concannon
Associate General Counsel

Sworn to and subscribed before me
this 1st day of October, 2001.



Steven R. DuBois
Notary Public for the State of South Carolina
My Commission Expires: May 10, 2009

South Carolina Department of Insurance
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Columbia, South Carolina 29202
(803) 737-6132